

**CITY COUNCIL AUDIT COMMITTEE MEETING  
Minutes**

**May 19, 2009  
3:30 p.m.  
Media Briefing Room**

Committee Present:	Councilmember Delicia Herrera, <i>District 6, Chair</i> Councilmember Philip Cortez, <i>District 4</i> Mr. Stanley Blend, <i>Oppenheimer Blend Law Firm</i>
Committee Absent:	Councilmember Louis Rowe, <i>District 9</i> Mr. Manuel Long, <i>Sol Schwartz and Associates</i>
Staff Present:	Sharon De La Garza, <i>Assistant City Manager</i> ; Frances Gonzalez, <i>Assistant City Manager</i> ; Michael Bernard, <i>City Attorney</i> ; Park Pearson, <i>City Auditor</i> ; Leticia Saenz, <i>Deputy City Clerk</i> ; Michael Sawaya, <i>Interim Aviation Director</i> ; Barry Lipton, <i>Deputy City Auditor</i> ; Cindy Schoenmakers, <i>Community Initiatives Assistant Director</i> ; Mark Bigler, <i>City Auditor's Office</i> ; Gabe Garcia, <i>City Attorney's Office</i> ; Mandy Milam, <i>Office of the City Clerk</i>

**CALL TO ORDER**

Chairperson Herrera called the meeting to order.

Ms. Saenz took the Roll Call and noted that there was not a quorum of the City Council Audit Committee. Chairperson Herrera stated that Councilmember Cortez was expected and Mr. Long and Councilmember Rowe would be absent.

At this time, Item II was addressed.

**II. Items Requiring Individual Briefing(s)**  
Presented by Park Pearson, City Auditor

Mr. Pearson noted that two audits had been issued since the last meeting and that the Time Warner Cable Audit was in progress.

Councilmember Cortez entered the Meeting at this time. Chairperson Herrera noted that there was a quorum of the City Council Audit Committee.

A. Final Report(s) issued since last meeting

i. Project AU08-005 Audit of Aviation Concessions Contracts

Mr. Lipton stated that there were approximately forty concessions that could operate at the Airport. He reported 2007 revenues at \$31 million of which the City received \$5.7 million. He

stated that the Airport had entered into an agreement with Unison Consulting Inc. to oversee certain provisions in the concessionaires' contracts. He added that Unison's fees were 13.25% of the 2007 revenues totaling \$750K.

Mr. Lipton stated that there were two objectives of the audit: 1) Were the concessionaires in compliance with key terms of the concession agreements; and 2) Did the City receive the correct amount of revenue in CY2007 and CY2008 based on the terms of the concession agreements. He reported the following observations: 1) The concessionaires were not always in compliance; 2) Insurance requirements were not always satisfied; 3) Performance guarantees were not always provided; 4) Certifications of gross sales by independent CPAs were not always present; and 5) Hours of operation and credit card payment availability were not in compliance. He noted that there were three instances of underpayment of rent totaling \$2,600 and one instance where the City received over payment by \$7,700. Mr. Lipton stated that staff recommendation was that the City enforce compliance with the agreements and that they credit and collect over and under payment of rent. He added that management had agreed with the report.

Mr. Sawaya stated there were too many issues related to the contracts and he had discussed them with the President of Unison. He reported that Unison took the audit very seriously and twenty out of the twenty-four issues had been resolved. He added that the Aviation Department would be performing internal audits every quarter and random testing of the agreements to ensure they remain in compliance.

Mr. Blend asked how often Chicago-based Unison reviewed the concessionaires' contracts, performance, and compliance. Mr. Sawaya replied that there were Unison Employees in San Antonio that worked with the department on a daily basis.

Chairperson Herrera asked of the Never Too Late contract. Mr. Sawaya replied that the Never Too Late contract stated that they would pay the City for Wi-Fi and ATM services, but the City offers free Wi-Fi at the Airport and ATM services were under another contract with Generations Credit Union. Chairperson Herrera asked of the four issues that had not been resolved. Mr. Sawaya stated that there were two issues with Never Too Late. He added that Brookstone and Custom Food Group were going through internal audits so the City was waiting on their documents.

ii. Project AU08-009 Audit of Community Initiatives Department Supportive Services for the Elderly Project (SSEP)

Mr. Lipton stated that under the SSEP, transportation was offered to persons age sixty and over who are residents of Bexar County for medical appointments and was a partnership between the City and the Alamo Area Council of Governments (AACOG). He noted that contributions were \$275K per year for AACOG and \$140K for the City. Mr. Lipton reported that in FY2008, 13,750 one-way trips had been provided for over 540 senior citizens.

Mr. Lipton stated that there were two objectives of the audit: 1) Is the SSEP program operating effectively; and 2) Is SSEP operating efficiently and are alternatives such as VIA or outsourcing feasible. He stated that the program was effective and the seniors were arriving at their appointments on time. He reported that there were issues related to accounting; VIA was not a

feasible alternative; and there was no procedure for reporting accidents to AACOG. He added that \$78K was allotted for taxicabs to provide service. He stated that staff recommendation was to correct the accounting issues, perform a cost analysis on hiring a part-time chauffeur, and implement a reporting process for accidents. He noted that management concurred with the audit.

Chairperson Herrera asked if staff was following the recommendation to analyze the cost of hiring a chauffeur versus taxicabs. Ms. Schoenmakers replied affirmatively and noted that the SSEP required a back-up plan. Mr. Blend asked if the taxicabs used straight meter rates. Ms. Schoenmakers replied that the City was charged a flat rate per trip.

Ms. Gonzalez noted that the SSEP would not allow the City to outsource services. She added that VIA was a curb-to-curb service, while the SSEP requires employees to assist clients out of their homes. She noted that the turnover rate was high and there were several requirements to be a chauffeur.

Chairperson Herrera asked for clarification on what constituted outsourcing services. Ms. Gonzalez noted that hiring taxicabs was permissible. Mr. Blend asked if there was trouble retaining chauffeurs due to income. Ms. Gonzalez stated that it was part of the problem, along with the extra duties the drivers were required to perform.

#### B. Status Report on In-Process Audits

Mr. Pearson noted that the Audit Plan had been adopted since the last Meeting and a City Auditor had been hired. He reported that Project AU07-017 City-wide Cash Handling Phase II, Project AU08-002 DCI Comprehensive Nutrition Program Contract, and Project AU09-003 Convention and Visitors Bureau Cash Handling would be ready by the next meeting. He spoke of Project AU09-014F1 SAPD Follow-up Audit of Firearm and Equipment Tracking and Project AU09-014F2 Solid Waste Management Follow-up Audit of Timekeeping noting that in the Audit Plan there was time set aside to follow-up so that the department could assure that management had corrected all deficiencies.

#### C. Update on 2009 Audit Plan

Mr. Bigler spoke on Project AU09-005 Finance Department Audit of Cable Franchise Fees. He stated that Time Warner Cable (TWC) had not produced the records needed to perform the audit. He noted two main issues in obtaining the records: 1) TWC was insisting that the City sign a nondisclosure agreement; and 2) TWC wanted to restrict the City so that the records could only be viewed at their office location. Mr. Bigler noted that it was the opinion of the City Attorney that the City did not need to sign an agreement and should be able to view the records through the Public Utilities Regulatory Authority (PURA) Act of Texas. He added that in order to conform with the Yellow Book Auditing Standards and produce working papers, the data would need to be accessible to staff outside of TWC's office.

Mr. Bigler stated that since the entrance conference, two letters had been issued demanding to review the records. He noted that the most recent communication with TWC had been earlier in

the day, and they would like to meet with the City Attorney's Office and outside counsel on May 20, 2009 to discuss next steps.

Councilmember Cortez asked what had prompted the audit. Chairperson Herrera replied that it had been a Council Consideration Request (CCR) from Councilmember Jennifer V. Ramos, District 3. Mr. Bernard noted that the City of Austin had performed an audit of TWC under their franchise agreement. He stated that since there were no more franchise agreements, the City of San Antonio did not have as much leverage, but was still entitled to the records. He added that the result of the Austin audit was that TWC owed \$1 million. Mr. Pearson noted that the issue with the Austin audit was that there was newly annexed land.

Councilmember Cortez asked if AT&T and Grande Communications were also being audited. Mr. Pearson noted that it was in the Audit Plan to review all cable providers. He added that TWC was being audited first and staff would evaluate the practicality of auditing the others. Chairperson Herrera asked if AT&T had prepaid their franchise fees. Mr. Garcia replied that they had prepaid a portion of their fees.

Mr. Blend asked if TWC had been audited before. Mr. Bigler stated that staff had attempted to audit TWC at the beginning of 2006, but the laws on franchising were changing at the time so the audit was delayed. Mr. Blend asked for the timeframe of the audit. Mr. Bigler replied that it would date back to January 1, 2006. He stated that depending on the results, they may review a larger timeframe.

Councilmember Cortez asked of the staff hours utilized on said audit and noted his concerns with the return. Mr. Pearson stated that many hours had been spent on the audit and did not want to set the precedent that the City would not follow through when met with opposition. Councilmember Cortez stated that all three organizations should be audited at the same time. Mr. Bigler noted that TWC's portion of the revenues was \$13 million whereas; AT&T and Grande Communications totaled \$1 million together.

Councilmember Cortez asked of the justification to perform the audit. Mr. Bernard stated that it was clear that State law gave the City the authority to perform an audit. He added that TWC was not questioning the City's authority; they were claiming that because of the sensitive nature of the data, documents could only be viewed in-house. Councilmember Cortez requested a timeline for auditing TWC, AT&T, and Grande Communications.

### **III. Executive Session**

Executive Session was not held.

#### **I. Approval of minutes from the meeting of March 3, 2009**

Councilmember Cortez moved to approve the minutes of March 3, 2009 as submitted. Mr. Blend seconded the motion. The motion carried unanimously by those present.

#### **IV. Consideration of items for future meetings**

Chairperson Herrera asked Mr. Pearson to have a list of items ready for the new City Council Audit Committee.

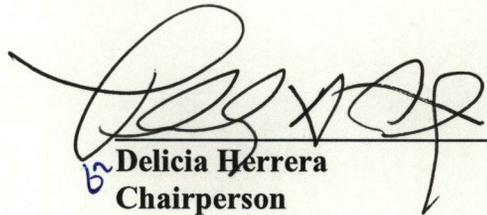
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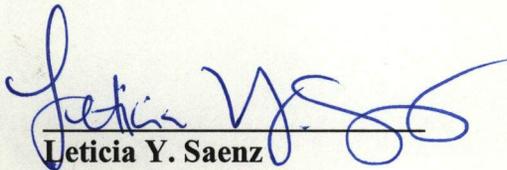
Councilmember Cortez recognized Chairperson Herrera and noted her accomplishments on the Committee and leadership as Chair.

**V. Adjourn**

There being no further discussion, the meeting was adjourned at 4:15 pm.

**ATTEST:**

  
Delicia Herrera  
Chairperson

  
Leticia Y. Saenz  
Deputy City Clerk